



Tucson Police and Fire PSPRS Boards
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MEETING MINUTES

Tucson Police PSPRS Board

Tuesday, March 3, 2020

The regular meeting of the Tucson Police Public Safety Personnel Retirement System Board was held on Tuesday March 3, 2020 on the 1st floor, Tucson Fire Department, Room 121, Fire Central, 300 S. Fire Central Place, Tucson, Arizona.

Vice-Chair Palomares called the Tucson Police and Tucson Fire PSPRS Board meetings to order at 9:07 a.m.

1. ROLL CALL

Police Board Members:

Present:	Thomas Palomares	Member
	James Johnston	Member
	Mickey Petersen	Member

Also Present:	Nathan Weber	Fire Board Member
	Jason Adler	Fire Board Member
	David McEvoy	Board Attorney
	Michael Jesse	Board Secretary
	Tony Archibald	Tucson Police Department
	Steve Erdman	Tucson Police Department
	Nathaniel Sigal	Mayor's Office

A Police Board quorum was established with Mayor Romero and Ms. Urquijo absent/excused.

2. POLICE CONSENT AGENDA: ITEMS A – D**A. MINUTES FOR APPROVAL – February 4, 2020****B. PENSION PAYROLL – Additions and deletions to benefits**

<u>Name</u>	<u>Transaction Type</u>	<u>LDW</u>	<u>Eff Date</u>	<u>Ben Amount</u>
Garman, George	NSR out of DROP	02/27/2020	03/01/2020	\$ 6,361.22
Fox, Bryn	NSR	02/13/2020	03/01/2020	\$ 4,023.56
Gonzales, Thomas	NSR	02/13/2020	03/01/2020	\$ 2,951.96

C. ELECTION TO PARTICIPATE IN DROP

<u>Name</u>	<u>Yrs of Srv</u>	<u>Date</u>	<u>Eff. Date</u>
Stover, Jeffrey	25.025	02/28/2020	03/01/2020
Burns, Jennifer	20.044	02/28/2020	03/01/2020
Gomez, Jr. Marcos	25.081	02/28/2020	03/01/2020
Kingman, Amber	20.041	02/27/2020	03/01/2020
Angulo, Amber	20.465	02/28/2020	03/01/2020
Crawford, Jennifer	22.305	02/28/2020	03/01/2020
Berg, Brian	22.305	02/28/2020	03/01/2020

D. APPROVAL OF EXPENDITURES

<u>Company Name</u>	<u>Description</u>	<u>Date</u>	<u>Amount</u>	<u>Method</u>
McEvoy, Daniels, Darcy	March Retainer	03/03/2020	\$ 400.00	DA-23
Sunnyside Medcenter	Annual Disability Evals.	02/13/2020	\$ 800.00	DA-23

Motion by Mr. Johnston, seconded by Mr. Petersen, that Police Items A-D are adopted as written. Motion **CARRIED** by a roll call vote of 3-0.

3. FIRE CONSENT AGENDA: ITEMS A – D**A. MINUTES FOR APPROVAL – February 4, 2020****B. PENSION PAYROLL – Additions and deletions to benefits**

<u>Name</u>	<u>Transaction Type</u>	<u>LDW</u>	<u>Eff Date</u>	<u>Ben Amount</u>
No Additions or deletions at this time.				

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C. ELECTION TO PARTICIPATE IN DROP

Name	Yrs of Srv	Date	Eff. Date
Du Pont II, Lewis	23.340	02/28/2020	03/01/2020
Elam, Brian	22.168	02/28/2020	03/01/2020
Turner, Rodney	28.068	02/28/2020	03/01/2020
McDonough, Sharon	29.336	02/28/2020	03/01/2020

D. APPROVAL OF EXPENDITURES

Company Name	Description	Date	Amount	Method
McEvoy, Daniels, Darcy	March Retainer	03/03/2020	\$ 400.00	DA-23

No action taken by the Police Board on this Fire Item.

4. ANNUAL DISABILITY PHYSICAL-Results of Report**Police**

Name	DOM:	DOR:	Last Exam	Type
Steward, Kelly	12/31/2000	11/29/2005	11/16/2017	Accidental

Motion made by Mr. Johnston, seconded by Mr. Petersen, that Ms. Steward remains in compliance with the bi-annual physical requirements and remains eligible to continue receiving disability pension benefits. Motion **CARRIED** unanimously.

5. ANNUAL DISABILITY PHYSICAL – REQUIREMENT**Police**

Name	DOM:	DOR:	Last Exam	Type	End Date
Daniel, Brian	04/22/2001	05/09/2011	03/08/2018	Ordinary	04/20/2021
Acevedo, Joaquin	06/16/2002	04/30/2019	03/14/2019	Accidental	06/15/2022
Matthews, Timothy	12/31/2000	05/21/2019	03/18/2019	Accidental	12/30/2020

Motion made by Mr. Johnston, seconded by Mr. Petersen, that Mr. Daniel, Mr. Acevedo, and Mr. Matthews be referred to the board physician for their required bi-annual disability physicals in order to remain in compliance and eligible to continue receiving disability pension benefits. Motion **CARRIED** unanimously.

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6. BOARD CHAIRPERSON

- Interchangeability of Mayor and Mayoral Delegate as Board Chairperson

There had been some discussion between Mr. Jesse and Mr. Sigal, of Mayor Romero's office, about whether a Mayoral delegate is a permanent delegate or could the delegate serve interchangeably with the Mayor at board meetings. Mr. Jesse placed an inquiry with PSPRS for an answer.

Mr. Jesse said the reply from PSPRS noted that the relevant statute did not allow for that. However, PSPRS went on to say that the statute did not speak to the issue either way.

Mr. Jesse stated that the issue had become moot based on Mr. Sigal's email he received in the morning before the meeting had started. In that email, it is noted that Mayor Romero wants to attend the meetings herself.

7. BOARD MEETING DATES

- Possibility of Change From the First Tuesday of Each Month

Mr. Jesse said that in the email noted in Item 6, Mayor Romero requested the meetings be moved to Thursdays at City Hall, if possible.

The Police and Fire Boards discussed changing the meetings to the first Thursday of every month. Mr. Weber said that he thought it was great that Mayor Romero wanted to chair the board meetings but his question was whether or not board members could make it on Thursdays. It was determined that Thursday meetings worked for everyone. The next item discussed was when a change to Thursday meetings would take effect. At the end of the discussion, it was concluded it was best to start with the May meeting (which would be Thursday May 7).

As to a change in meeting location, the Police and Fire Boards felt that the current location worked best. That was based on the PSPRS Local Board Office being housed in Fire Central, not necessitating the transport to and from City Hall of a high volume of sensitive information (e.g., medical records), and allowing staff to quickly produce additional information that might be requested during a meeting. Mr. Sigal asked if the meetings had always been held at Fire Central under the previous Mayor. Mr. Jesse confirmed that they had.

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Motion made by Mr. Johnston, seconded by Mr. Petersen, that PSPRS Local Police Board and PSPRS Local Fire Board meetings will continue to be held in their current location but starting with the May meeting (May 7) they will be held at 9:00 a.m. on the first Thursday of the month. Motion **CARRIED** unanimously (5-0) in a joint vote of the Police and Fire Boards.

8. FUND/OFFICE INFORMATION

- 2020 Board Election Timeline – One Fire Term, One Police Term Expiring

Mr. Jesse told the Police and Fire Boards that two board terms (one Police, one Fire) were expiring on June 30, 2020. As such, the PSPRS Local Board office would need to conduct an election for those board seats. Mr. Jesse provided the timeline for holding the elections and getting the newly elected members seated.

- FY 2021 Board Office Budget – Preliminary Discussion

Mr. Jesse provided the Police and Fire Boards with a preliminary discussion draft of the PSPRS Local Board Office budget for Fiscal Year 2021. Mr. Jesse said his end of the year projections started with most recent actual data that he had – Fiscal Year 2020 Accounting Period 7 (i.e., through January 31, 2020). Mr. Jesse stated that he was very comfortable with most of the projections but said he needed a bit more time to work on those that had more variables or details involved. Mr. Jesse indicated his projected end of year total expenditures are approximately \$316,000 vs the approximately \$227,000 budget for the year – an \$89,000 overage. He noted the \$99,000 software assessment against the budget for a product the Local Board Office did not purchase. This is supposed to be a temporary encumbrance (not an actual charge yet) that will be reallocated before the end of Fiscal Year 2020. Without that software cost, Mr. Jesse noted the projected expenditures are about \$10,000 under budget. That is due mostly to vacancies throughout the year in the part-time administrative position that was approved for Fiscal Year 2020. If that had been filled for the entire year, Mr. Jesse felt that total expenditures would have been closely in line with those adopted in the Fiscal Year 2020 budget.

The Police and Fire Boards want to address the status of the \$99,000 software assessment at a future meeting.

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For Fiscal Year 2021, Mr. Jesse's preliminary budget request is approximately \$244,000 as compared to the approximately \$284,000 generated by the City of Tucson budgeting system. Mr. Jesse identified the \$40,000 difference as being primarily attributable to the budgeting system treating Ms. Horn as a full time employee (she is actually a 50% FTE) and assessing pension contributions to the part time administrative assistant position (that is not eligible for the pension plan).

- PSPRS Accidental Disability – Discussion of Recent Legal Case Decision

Mr. McEvoy shared an analysis of the *Todd Pascarella v. Mesa Police Pension Board*, a PSPRS stress disability case, and the standards to be applied in awarding or denying an Accidental Disability Retirement application. Mr. Pascarella supplied medical evidence from his own physician indicating he suffered from PTSD attributable to the on the job incident cited (which he claimed was not normal) in his Accidental Disability Retirement application. The Mesa Police Pension Board denied the claim on the basis that Mr. Pascarella was responding in the normal course of what police officers are expected to do – in apparent recognition of the Sloss case standard of an event having to be unusual, unexpected, or extraordinary to warrant an accidental disability award. The case was appealed to the Superior Court. The Superior Court overturned the board's decision on the basis that medical evidence had to be considered to make such a determination. The Superior Court asserted that the board had ignored the medical evidence supplied by Mr. Pascarella in which his doctor stated his PTSD was attributable to the cited incident. The Superior Court ordered the board to send Mr. Pascarella to an IME.

This ruling prompted Mr. McEvoy to send a question to PSPRS legal counsel asking if a local board would still have the authority to deny an Accidental Disability application, should a local board's IME find the applicant did have PTSD attributable to an on the job incident, if that local board determines the incident was not unusual, unexpected, or extraordinary pursuant to the Sloss case. Mr. McEvoy is awaiting a reply.

Mr. McEvoy also provided information on the very recent *France v. Industrial Commission of Arizona* case. This case was adjudicated by an Administrative Law Judge. John France filed a workers' compensation claim for benefits due to PTSD he attributed to an on the job incident. The incident involved Mr. France encountering a manic gunman at close range. Although it was agreed that Mr. France did suffer from PTSD attributable to that job related incident, the Administrative Law Judge denied the claim on the basis the event did not meet the

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unusual, unexpected, and extraordinary standard of the Sloss case. The ruling was appealed to the court and the decision of the Administrative Law Judge was overturned. The court ruled that the stress experienced from the event is what must

be unusual, unexpected, and extraordinary – not the event itself. Mr. McEvoy expressed concern that this ruling moves decisions from objectivity into areas of subjectivity.

Mr. McEvoy said that he would not be surprised if either one or both of these was appealed to the Arizona Supreme Court and accepted for review by that court. If both were appealed and accepted they might even be consolidated into one case. A Supreme Court ruling would give some clear guidance on these issues.

- Miscellaneous / Other

Mr. Jesse said interviews for the part time administrative position will be held on March 11. The interview panel (elected Fire member – Mr. Adler, elected Police member – Mr. Johnston, Mr. Jesse, and Ms. Horn) will score the candidates and discuss its findings. The hiring recommendation will be brought to the Police and Fire Boards at the April 7 meeting. The prospective hire will be informed that employment is subject to ratification at that meeting.

Mr. Johnston mentioned to the Police and Fire Boards that he would like to have a future discussion regarding job classification and pay structure for local board office staff.

Motion made by Mr. Johnston, seconded by Mr. Weber, that job classification and pay structure for local board office staff be placed on the agenda for the next meeting. Motion **CARRIED** unanimously (5-0) in a joint vote of the Police and Fire Boards.

9. ADJOURNMENT

The next regular meeting of the Tucson Police and Fire Public Safety Personnel Retirement System Boards is scheduled for **9:00 a.m.** on **Tuesday, April 7, 2020** in Fire Central **Room 121**, Tucson Fire Department, 300 S. Fire Central Place, Tucson, AZ.

Michael J. Jesse, Board Secretary

Date

Regina Romero, Chair

Date

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